

INSURANCE CLAIMS FOR CHILDREN IN CHILDREN'S DIVISION (CD) CUSTODY

When insurance companies offer to settle claims for children in CD custody, usually as the result of an accident of some type (automobile, etc.) our agency has no authority to waive the minor child's rights in a legal cause of action. CD also has no right to settle any potential claim they may have due to the Division's fiduciary conflict. The juvenile court should be the one to make the final decision on who has authority to settle for the child, possibly by appointing a next friend or setting up a conservatorship. The fiduciary conflict referred to above also involves cases where there may be a Medicaid recovery or KIDS account issues.

If there is such a claim to be settled or offer being made by the insurance company, the following procedure shall be implemented:

1. Request the insurance company submit a formal written offer to the local CD office.
2. The local CD office should then forward the offer to the juvenile court asking for direction on how to proceed, and forward the offer to the Division of Medical Services, Third Party Liability Unit.
3. The juvenile judge should then issue an order as to how to proceed.

MEMORANDA HISTORY: